Review of Agencies, Boards and Commissions and Delegated Administrative Organizations

FINAL REPORT
APRIL 30, 2001

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Summary of Recommendations

GENERAL RECOMMENDATIONS

1.1 Ministers should enter into memoranda of understanding with each ABC in their ministry to clarify the government's expectations about roles, responsibilities, duties, functions, standard of care, policy direction and performance expectations to be achieved by ABCs.

1.2 ABCs should undertake an assessment of the effectiveness of their governance and accountability, and where appropriate identify issues that should be addressed in a board governance handbook or a memorandum of understanding.

1.3 Ministers should enter into memoranda of understanding with each DAO providing services for their ministry to clarify the government's expectations about roles, responsibilities, duties, functions, standard of care, policy direction and performance expectations to be achieved by DAOs.

1.4 To improve communication between agencies and government, Chairs of significant agencies, boards and commissions should meet annually with the Deputy Minister of Executive Council. A separate annual meeting should also be held with the agency Chairs and all Deputy Ministers.

2.1 The existing Minister's Request (MR) process should be used to review all proposals to establish or dispose of provincial agencies. The MR process ensures that Standing Policy Committee and Cabinet approval is obtained and that the full financial and policy implications of the proposal have been considered.

2.2 The list of significant agencies, boards and commissions maintained by Executive Council should be updated on an ongoing basis (i.e., use of MR process should facilitate). A new listing of delegated administrative organizations should be maintained by Executive Council.

3 ABCs that currently maintain any portion of their own administration should review opportunities to use the Alberta Corporate Service Centre when it is fully operational. By 2002-03, all ABCs should use the Corporate Service Centre unless specifically exempted by the Government Reorganization Secretariat.

4 Grant flow-through agencies such as:

- Alberta Foundation for the Arts;
- Alberta Historical Resources Foundation;
- Alberta Sport, Recreation, Parks and Wildlife Foundation;
- Human Rights, Citizenship and Multiculturalism Education Fund, and
- Wild Rose Foundation

provide needed expertise on the funding allocation process. However, there may be opportunities to streamline or simplify their administration in future through organizational restructuring.

Ministries with grant flow-through agencies should evaluate whether these agencies could be restructured as unincorporated boards. Ministries should provide these evaluations to the Reorganization Secretariat before January 1, 2004, the next sunset date under the *Financial Administration Act*.

These evaluations should include proposed transitional plans to deal with accumulated surpluses of current grant flow-through ABCs, using Cabinet's earlier direction as a guideline.

In future, if grant flow-though programs are anticipated the unincorporated board approach should be considered ahead of a corporate ABC.

AGENCY SPECIFIC RECOMMENDATIONS

5 Agriculture, Food and Rural Development should review the Irrigation Council's role in the appeal process under the new Act and assess whether the process should be revised by 2002-03.

6 The Child and Family Services Authorities have just completed a second year of operations. As they are relatively new, they should now establish a memoranda of understanding to define an effective governance model and accountability framework.

7 The Minister of Children's Services recommendation that a joint review of the Social Care Facilities Review Committee and the Health Facilities Review Committee be undertaken is accepted.

AGENCY SPECIFIC RECOMMENDATIONS (CONTINUED)

8 Community Development's suggestion that the sunset of the Social Housing Corporation be reviewed in 2002 is accepted. (Note - the Social Housing Corporation has been transferred to Seniors.) The Corporation should be wound up no later than January 1, 2004, the next sunset date under the *Financial Administration Act*.

9.1 The Minister of Environment and the Environmental Appeal Board (EAB) should establish a memorandum of understanding for policy and administrative matters.

9.2 The responsible Ministers should review the legislation governing the EAB, Energy and Utilities Board (EUB) and Natural Resources Conservation Board (NRCB) to ensure it is clear and consistent in defining the respective duties and jurisdiction of the agencies.

9.3 The responsible Ministers should report jointly to the Reorganization Secretariat within 6 months on any opportunities for improving the operations of EAB, EUB, NRCB, Land Compensation Board and the Surface Rights Board and their relationships with the ministries of Energy, Environment, and Sustainable Resource Development. This review should also consider opportunities for consolidation and streamlining into a "one-window" approach.

10.1 The Alberta Gaming and Liquor Commission (AGLC) should review alternative service delivery mechanisms for functions such as equipment maintenance and/or data processing.

10.2 The AGLC should continue its examination of its governance structure.

11 The Council on Professions and Occupations should be eliminated as soon as possible, but no later than March 31, 2001. (Note - this recommendation has been implemented.)

INTRODUCTION

In 1993, the Alberta Financial Review Commission made a recommendation that "agencies or funds should meet stringent justification requirements, be reviewed regularly, and provisions made for sunset clauses." The *Financial Administration Act* was amended subsequently to provide for an ongoing sunset review of provincial corporations and some provincial committees (i.e., those established in legislation or that administer their own financial affairs). In keeping with the spirit of the Financial Review Commission recommendation, it was decided agencies, boards and commissions should be reviewed as part of the government reorganization announced in May, 1999.

This report was in final draft form when the provincial general election was called for March 12, 2001. This report has now been updated to reflect the government reorganization which was announced on March 15, 2001.

MANDATE

On May 25th, 1999 the Premier announced that the Government Reorganization Secretariat, under the direction of the Vice Chair, would review government agencies, boards, and commissions (ABCs). Subsequent to that announcement, it was also decided to review delegated administrative organizations (DAOs). A complete list of the organizations reviewed is provided in Attachment 1.

The review included the ABCs that are within the current government reporting entity. ABCs outside the reporting entity, such as regional health authorities, school boards, and post secondary institutions, were excluded from this review.

Persons with Developmental Disabilities Boards were subject to a separate review by the Honourable Gene Zwozdesky and were excluded from this review. Albert Klapstein, MLA – Leduc, is reviewing the potential to merge the Alberta Opportunity Company with the Agriculture Financial Services Corporation. Therefore, these ABCs were also excluded from the review.

The review of Delegated Administrative Organizations included 14 DAOs in six ministries, as identified by Government Senior Financial Officers.

In consultation with ministries and ABCs, the review of ABCs considered the following:

- organizational structure and mandate of the ABCs;
- linkages between the ABC's business plans and core businesses with those of the respective ministry;
- opportunities for elimination of duplication and overlaps, shared services and coordination of information technology initiatives, and
- effectiveness of the accountability framework and governance of the ABCs within the respective ministry.

In consultation with ministries and DAOs, the review of DAOs considered the following:

- mandate and key responsibilities of the DAOs,
- linkages between the DAOs' delegated responsibilities and the ministry's core businesses, and
- effectiveness of the accountability framework for the DAOs within their ministry.

ROLE OF AGENCIES, BOARDS AND COMMISSIONS

Agencies, boards and commissions have been assigned program and service delivery responsibilities by the government. Most of the ABCs have been established in legislation that outlines broad roles and responsibilities. In general, ABCs have been assigned specific program, governing, advisory, regulatory or policy development roles, or some combination thereof. A Minister, on behalf of the government, sets the policy direction for the ABC and defines the specific responsibilities. The government also provides the ABC with either grant funding or the ability to raise revenues to finance its activities. The responsible Minister holds the ABC accountable for the financial and performance results achieved. ABCs are usually subject to the *Financial Administration Act* and *Government Accountability Act.*

ROLE OF DELEGATED ADMINISTRATIVE ORGANIZATIONS

A DAO is responsible for the administration and/or delivery of specific products or services as delegated by a Minister.

DAOs separate government responsibilities of policy management and regulation establishment from direct program delivery. DAOs are generally not subject to the *Financial Administration Act* or the *Government Accountability Act.* DAOs are accountable to multiple stakeholders, including government.

REVIEW PROCESS

An information request was sent directly to the ABCs and DAOs. ABCs were asked to provide information about:

- their mandate and core businesses in relation to the ministry;
- organization and administrative issues, and
- governance and accountability arrangements.

Work already completed for the Government Reorganization Secretariat could be included in the ABCs response. The request to DAOs focused on accountability issues. Ministers were asked to provide any comments or recommendations they may have regarding the ABCs and/or DAOs.

This information was evaluated to identify ABCs or DAOs for which a more in-depth review was appropriate. Where an in-depth review was conducted, there was further consultation with the ABC or DAO and ministry in considering the final recommendations.

Based on the findings of this review, both general and specific recommendations have been made.

GENERAL COMMENTS/ RECOMMENDATIONS

General comments or recommendations apply to most or all of the agencies, boards, commissions or delegated administrative organizations which were subject to this review. The general findings and recommendations are focused in four areas:

- governance and accountability,
- establishment of agencies,
- shared services, and
- grant flow-through agencies.

The governance and accountability of ABCs and accountability of DAOs are significant issues for the government.

GOVERNANCE AND ACCOUNTABILITY

Findings

Governance and accountability has been a prominent issue in both the private and public sectors in recent years. In Alberta, governance and accountability of the province's ABCs has been evolving over the past few years and will continue to do so in the future.

The government made a significant step in improving the governance and accountability of ABCs by including agencies, boards and

commissions in the government's consolidated budget starting in 1993-94. For the first time, all ABCs financial results had to be taken into account in determining the government's fiscal plan. As a result, communication between the government and ABCs on financial matters became much more important. Since then, the following have all required the governance and accountability of ABCs to improve:

- the transition of business plans from department plans to ministry plans;
- establishment and ongoing refinement of the government's performance measurement system;
- requirements for more comprehensive ministry reporting of plans and results achieved;
- government's legislated fiscal management requirements under the *Fiscal Responsibility Act* (and the predecessor Acts), and
- defining more formal appointment and reappointment processes for agency board members.

The Alberta government has been a leader nationally and internationally in developing business planning, performance measurement, and timely and complete ministry reporting. The *Government Accountability Act* legislated many of these requirements, some of which are now considered best practices. The Act also lays out Ministers' responsibilities under the government's accountability framework, including Ministers' responsibilities for all organizations in their ministries.

In spite of the significant steps the government has taken to become more open and accountable, there is still room for improvement particularly when it comes to governance and accountability of ABCs.

In his 1998-99 Annual Report, the Auditor General made the following recommendation (No. 9 – Page 49):
It is recommended that the Deputy Minister of Executive Council work with other Ministries to set out governance principles for all agencies, boards and commissions.

The Auditor General noted that "government should provide guidance to assist Ministers in establishing and agreeing on governance practices for ABCs." Further, "all board members should receive information on their governance role and the public policy role of the ABC."

The most critical element to improve the governance and accountability of ABCs is to clarify the government's expectations about roles, responsibilities, duties, functions, standard of care, policy direction and performance expectations to be achieved by ABCs. Lines of communication between ABCs and the government also need to be clarified.

In the private sector, the specific goals and objectives of the organization are usually very clear and straight forward. The board's role is to ensure these goals and objectives are met and there are generally accepted measures by which to hold them accountable (e.g., share price, profitability).

Frequently the goals, objectives and responsibilities are more complicated for government ABCs since the implications of the public policy relationship need to be taken into consideration. Enabling legislation for many government ABCs tends to set out the high-level purpose or objectives for an ABC. However, there does not usually exist in statutes, regulations or other communications with ABCs a comprehensive statement of the specific roles, responsibilities, duties, functions, standard of care, policy direction or performance expectations. Also, the interrelationship with other ABCs or ministries that have related policy objectives may not always be well understood or documented.

The mechanisms for more detailed communication and understanding between government and the ABC tend not to be well defined and vary considerably. Current practice ranges from a Minister or senior civil servant sitting on the ABC board to the more common scenario of ad hoc meetings between the ABC and government.

As a result, most ABCs are complying with the minimum requirements under the *Government Accountability Act* by providing Ministers with business plans and annual reports. However, there is considerable room to establish a more comprehensive governance and accountability relationship.

The varied relationship of ABCs to government suggests that no one standard approach to improve governance and accountability could be applied in all cases due to:

- different natures of organizations (e.g., regulatory or operational);
- degree of independence and autonomy of the ABC;

- differences in the appointment process of the board (e.g, election, nomination, appointment);
- differences in the appointment process for the Chief Executive Officer (i.e., appointed by the government or the board), and
- varying roles played by boards in policy and decision making.

Establishing a flexible approach to improving governance and accountability that gives Ministers guidance on areas to be considered is most likely to result in:

- better understanding of roles and responsibilities by the ABC (both as a board and as individual board members), the Minister/Cabinet, government departments, other ABCs and stakeholders;
- improved communication;
- improved ministry business planning;
- better understanding of risks and mitigation strategies, and
- cost effective governance and accountability.

MEMORANDA OF UNDERSTANDING

Establishing memoranda of understanding between Ministers and ABCs would be an effective way to improve governance and accountability by supplementing existing legislation to clarify the government's expectations about roles, responsibilities, duties, functions, standard of care, policy direction and performance expectations to be achieved by ABCs. Appendix 2 provides a number of matters for Ministers to consider in establishing memoranda of understanding for ABCs.

It is very important to recognize that some ABCs are administrative tribunals that perform a quasi-judicial function, as described in legislation. In these cases, a memorandum of understanding should not in any way limit or interfere with those ABCs quasi-judicial function. However, a memorandum of understanding can be useful in dealing with administrative issues or matters of policy.

The memoranda of understanding approach recognizes ABCs are different and constantly changing. Allowing flexibility within a broad set of guidelines would be an appropriate approach at this stage of evolution of ABC governance and accountability.

In addition to role clarification, there are other governance considerations. There has been much written recently about corporate governance by organizations like the Canadian Institute of Chartered

Accountants Criteria of Control Board, the Toronto Stock Exchange Committee on Corporate Governance, Conference Board of Canada and the Canadian Comprehensive Audit Foundation. Despite the considerable attention to this issue, improving corporate governance is still a work-in-progress in both the private and public sectors. Generally, much of this information focuses on how boards could conduct themselves to improve the achievement of their goals through taking leadership in things like:

- approving and monitoring mission, vision and strategy;
- approving and monitoring ethical values;
- monitoring internal control and management information systems;
- evaluating senior management and ensuring appropriate compensation and succession plans are in place;
- overseeing the communications program;
- ongoing evaluation of board effectiveness using different tools or approaches;
- ensuring appropriate mix of "independent" board members involved in key decisions and committees, and
- monitoring board member qualifications, experience and understanding.

The above items are very important aspects in establishing effective governance and accountability. Some of these items could be considered directly by ABCs such as monitoring ethical values and internal controls. Others could be considered jointly by ABCs and government, such as a board succession plan, orientations for board members and a conflict of interest policy. Some ABCs (eg., the Agriculture Financial Services Corporation) have established board governance handbooks that address many of these issues.

The governance and accountability issues for DAOs have some similarities with and many distinct differences from those related to ABCs.

Generally speaking, DAOs are not controlled by the government and do not have an active role in developing government policy. Instead, they are independent organizations that the government has in effect entered into a contractual relationship with for the delivery of specified services on behalf of the government, in accordance with the government's policy. In that sense, the government does not need to concern itself with board governance matters provided the DAO meets its contractual obligations.

However, the government has an obligation to ensure that DAOs are held accountable in providing the contracted services at the agreed upon service levels. In some cases, the accountability relationship between government and DAOs may not be as clearly defined as it should be. Establishing a memorandum of understanding between Ministers and DAOs would be an effective way to improve accountability by supplementing existing understandings about roles, responsibilities, duties, functions, standard of care, policy direction and performance expectations to be achieved by DAOs. Clarifying the accountability relationship however, does not mean the government can control the DAO.

Recommendations

1.1 Ministers should enter into memoranda of understanding with each ABC in their ministry to clarify the government's expectations about roles, responsibilities, duties, functions, standard of care, policy direction and performance expectations to be achieved by ABCs.

1.2 ABCs should undertake an assessment of the effectiveness of their governance and accountability, and where appropriate identify issues that should be addressed in a board governance handbook or a memorandum of understanding.

1.3 Ministers should enter into memoranda of understanding with each DAO providing services for their ministry to clarify the government's expectations about roles, responsibilities, duties, functions, standard of care, policy direction and performance expectations to be achieved by DAOs.

1.4 To improve communication between agencies and government, Chairs of significant agencies, boards and commissions should meet annually with the Deputy Minister of Executive Council. A separate annual meeting should also be held with the agency Chairs and all Deputy Ministers.

ESTABLISHMENT OF AGENCIES, BOARDS AND COMMISSIONS

Findings

In response to the Financial Review Commission recommendation to "...reduce substantially the number ..." of government owned

agencies, boards and commissions, the government implemented the following process:

- under the *Financial Administration Act*, Cabinet approval is required before a government entity can be established, wound up or disposed of;
- under the *Financial Administration Act*, most provincial agencies were discontinued on January 1, 1999, and every five years thereafter, unless specifically continued by an Act of the Legislature, and
- Ministers were asked to review the need for government owned entities as part of the business planning process.

Following these measures, the number of provincial agencies fell. However, a review of Executive Council's listing of significant agencies, boards and commissions shows that since 1998-99 the number of agencies has been increasing. Conducting government business through a significant number of government owned entities increases financial reporting, auditing, budgeting, cash-management and program co-ordination costs for the government. Further, the acquisition of a provincial agency can sometimes have significant implications for ministry spending.

Although Cabinet approval is required before an agency can be established, the process for bringing these requests before Cabinet has not always allowed for sufficient review. A more rigorous review of ministry proposals involving government agencies is required, to ensure the financial implications have been identified and other relevant stakeholders consulted prior to seeking Cabinet approval.

Recommendations

2.1 The existing Minister's Request (MR) process should be used to review all proposals to establish or dispose of provincial agencies. The MR process ensures that Standing Policy Committee and Cabinet approval is obtained and that the full financial and policy implications of the proposal have been considered.

2.2 The list of significant agencies, boards and commissions maintained by Executive Council should be updated on an ongoing basis (i.e., use of MR process should facilitate). A new listing of delegated administrative organizations should be maintained by Executive Council.

SHARED SERVICES

Findings

Most of the smaller ABCs are participating in shared services arrangements (usually with their associated department). Many smaller ABCs in fact have all their administrative needs managed by department staff.

However, some larger ABCs such as the Alberta Alcohol and Drug Abuse Commission and the Alberta Gaming and Liquor Commission maintain their own administration.

Some agencies are involved in shared services arrangements between themselves (e.g., the Energy and Utilities Board and the Natural Resources Conservation Board share technical support services).

It is premature to assess the benefit the larger agencies will derive from the Alberta Corporate Service Centre.

Recommendation

3 ABCs that currently maintain any portion of their own administration should review opportunities to use the Alberta Corporate Service Centre when it is fully operational. By 2002-03, all ABCs should use the Corporate Service Centre unless specifically exempted by the Government Reorganization Secretariat.

GRANT FLOW-THROUGH AGENCIES

Findings

There are a number of ABCs that appear to exist primarily as a vehicle to flow grants from the government through an intermediary corporation to external organizations. It has been suggested the intermediary corporation provides some degree of separation between the government and the grant recipient. These ABCs, through the board of directors, provide needed expertise and/or stakeholder representation in the grant funding process.

Incorporated ABCs are required to have separate budgets and audited financial statements and their operations must be consolidated into the associated ministry's financial reporting. These requirements may result in unnecessary administrative efforts that could be avoided.

Other alternative organizational structures could be used that still provide the needed expertise and/or stakeholder representation, but with a simpler administrative requirement.

For example, the *Alberta Science and Research Authority Amendment Act* (most sections came into effect on August 1, 2000) streamlined the organization of the Alberta Science and Research Authority (ASRA) and its subsidiaries by dissolving the Alberta Oil Sands Technology and Research Authority (AOSTRA) and the Alberta Agricultural Research Institute (AARI) as corporations and making them unincorporated boards. The new structure as unincorporated boards does not change each organization's primary role of recommending funding for research in their respective areas of expertise. However, they will no longer hold funds or make grant payments directly, streamlining administration considerably. The activities of AOSTRA (renamed as the Alberta Energy Research Institute) and AARI will be reported as part of the ASRA.

A similar alternative for grant flow-through agencies is the Community Lottery Boards model. These boards are responsible to allocate a budgeted amount, specified by the Gaming Ministry, through awarding grants within their respective regions. Once the board has awarded a grant, Gaming processes the payment to the grant recipient on behalf of the board. This alternative would perhaps provide a higher profile to the function than the AOSTRA / AARI alternative.

The status of any accumulated surpluses of ABCs that moved to unincorporated boards would need to be clarified. Boards of ABCs may perceive these surpluses as "their" money to spend on the ABC's priorities when they see fit.

Under the government's fiscal planning framework, based on a fully consolidated budget, these surpluses can only be accessed through the normal business planning process. Unplanned use of surpluses can only be accommodated during a fiscal year if affordable under the *Fiscal Responsibility Act* and approved by Treasury Board through the quarterly reporting process. In 1997, Cabinet confirmed this approach for ABCs accessing their surpluses and directed ministries to review

their ABC's surpluses to determine which of the following options would be most appropriate:

i) Restructuring program delivery to move agencies outside government control and, therefore, outside the reporting entity.

ii) Draw down agency surpluses over several years in the context of the fiscal plan.

iii) Continue the existing policy whereby spending of surpluses is reviewed within the context of the overall government fiscal plan.

iv) Return surpluses to the General Revenue Fund if the associated spending on the fund/agency mandate is no longer seen as a priority.

If existing grant flow-through ABCs were restructured as unincorporated boards, the remaining surplus could be addressed in the manner set out by Cabinet. If any of the surpluses related to third party externally restricted amounts, those commitments would need to be honoured.

Recommendation

4 Grant flow-through agencies such as:

- Alberta Foundation for the Arts;
- Alberta Historical Resources Foundation;
- Alberta Sport, Recreation, Parks and Wildlife Foundation;
- Human Rights, Citizenship and Multiculturalism Education Fund, and
- Wild Rose Foundation

provide needed expertise on the funding allocation process. However, there may be opportunities to streamline or simplify their administration in future through organizational restructuring.

Ministries with grant flow-through agencies should evaluate whether these agencies could be restructured as unincorporated boards. Ministries should provide these evaluations to the Reorganization Secretariat before January 1, 2004, the next sunset date under the *Financial Administration Act*.

These evaluations should include proposed transitional plans to deal with accumulated surpluses of current grant flow-through ABCs, using Cabinet's earlier direction as a guideline.

In future, if grant flow-though programs are anticipated the unincorporated board approach should be considered ahead of a corporate ABC.

Following the review of 77 submissions from agencies, boards, and commissions, some agencies were identified for in-depth review. Based on these reviews, the following specific recommendations are made.

AGENCY SPECIFIC RECOMMENDATIONS

IRRIGATION COUNCIL

What They Do

The Council works with the Irrigation Districts and government departments on irrigation issues. The Council also administers the Irrigation Rehabilitation program.

Under the *Irrigation Districts Act*, which came into force in May of 2000, the Irrigation Council is less involved in the day-to-day activities of Irrigation Districts. The Council will now hear appeals as permitted under the new Act. The previous Irrigation Appeal Tribunal no longer exists.

Findings

The relationship between the Council, the Irrigation Districts, the Alberta Irrigation Projects Association and government departments was reviewed.

The roles of the Council, the Districts and the Association are distinct and do not overlap, although they have a common interest. The ministries of Agriculture, Food and Rural Development and Environment are clear on the division of responsibilities.
The effect of the new appeal process is uncertain. There had not been an appeal to the Council's former Appeal Tribunal for over three years. Council members are now being trained on handling appeals.

Recommendation

5 The Ministry should review the Irrigation Council's role in the appeal process under the new Act and assess whether the process should be revised by 2002-03.

CHILD AND FAMILY SERVICE AUTHORITIES

What They Do

These new authorities are both operational (e.g., child protection services) and regulatory (e.g., day care licensing).

Findings

The submissions from the 18 Child and Family Service Authorities were similar, with all the authorities newly established and working to establish operating and management controls. Detailed reviews were not conducted with any single Authority. The recommendation is intended to apply generally to all the Authorities.

Recommendation

6 The Authorities have just completed a second year of operations. As they are relatively new, they should now establish a memoranda of understanding to define an effective governance model and accountability framework.

SOCIAL CARE FACILITIES REVIEW COMMITTEE

What They Do

The Committee, which is accountable to the Minister of Children's Services, visits social care facilities and prepares quality of service reports.

Findings

The government reorganization transferred responsibility for Services to Persons with Development Disabilities, including the Michener Centre, to the Community Development Ministry from Health and

Wellness. These facilities were at one time subject to review by the Social Care Facilities Review Committee. While in the Ministry of Health and Wellness, it was unclear whether the facilities could be subject to review by the Health Facilities Review Committee.

The Minister of Children's Services has recommended a joint review of the Social Care Facilities Review Committee and the Health Facilities Review Committee to confirm the mandate of these organizations following the government reorganization.

A detailed review of the Board was not undertaken, based on the Minister's recommendation.

Recommendation

7 The Minister's recommendation that a joint review of the Social Care Facilities Review Committee and the Health Facilities Review Committee be undertaken is accepted.

SOCIAL HOUSING CORPORATION

What They Do

The Corporation holds and administers the Alberta Government's social housing and related assets and liabilities (includes debt portfolio).

Findings

The government reorganization transferred responsibilty for the Corporation to the new Seniors Ministry from Community Development. There has recently been a review of the Corporation's role and purpose.

Some of the activities that were undertaken through the Corporation by Community Development have been realigned to the appropriate programs within Seniors. Other activities are likely to be transferred in subsequent years' business plans. Several properties have been identified as candidates for disposal.
In the short to medium term the Corporation will likely remain as a shell to hold remaining properties and related debt. There is no real need for the Corporation to continue in the longer term as the assets and liabilities could be transferred to the government.

Negotiations are currently underway with the federal government regarding the transfer of Canada Mortgage and Housing Corporation properties and debt to the Province. Until those negotiations are complete there is a temporary need for the Corporation to continue.

In the interim, governance and accountability is not a concern. The board consists of the Minister and senior government officials. The ministry provides administrative support.

Recommendation

8 Community Development's suggestion that the sunset of the Corporation be reviewed in 2002 is accepted. (Note - the Social Housing Corporation has been transferred to Seniors.) The Corporation should be wound up no later than January 1, 2004, the next sunset date under the *Financial Administration Act.*

ENVIRONMENTAL APPEAL BOARD/ENERGY AND UTILITIES BOARD/NATURAL RESOURCES CONSERVATION BOARD/ENVIRONMENT MINISTRY

What They Do

The **Environmental Appeal Board** (EAB) hears appeals from affected parties on decisions under the *Environmental Protection and Enhancement Act* regarding environmental approvals, enforcement actions, reclamation certificates, certificates of qualification, or other matters such as *Water Act* decisions. The EAB also has jurisdiction over specific sections of the *Government Organization Act.*

The **Energy and Utilities Board** (EUB) regulates the safe, responsible, and efficient development of Alberta's energy resources: oil, natural gas, oil sands, coal, and electrical energy; and the pipeline and transmission lines to move the resources to market. The Board adjudicates issues related to the operation of designated utilities within Alberta and ensures that the development, transportation and monitoring of the Province's energy resources are in the public interest.

The **Natural Resources Conservation Board** (NRCB) reviews forestry, water management, tourism, and mining projects that have

been directed to prepare environmental impact assessments under the *Environmental Protection and Enhancement Act.*

The Environment ministry, as part of its many activities, performs a licensing and permit function and regulatory role for certain activities related to projects approved by the EUB and NRCB.

Findings

All of these organizations operate independently, but their functions are interconnected. Their roles have evolved over time, and recognize the sensitivities of the various interest groups affected by their activities. They seem to provide a relatively balanced approach in managing complex issues. There does not seem to be much duplication of activities.

The EUB and NRCB functions are somewhat similar, but their jurisdictions are distinct. EUB's mandate relates to the efficient extraction and reclamation of energy projects. The NRCB focuses on environmental issues related to forestry, non-resource quarrying and mining, recreational and water management projects. These organizations already have some common board membership and a significant sharing arrangement in place for technical staff. There may be potential for further integration of administrative and technical services, but the cost savings would be minimal while potentially affecting the agencies' abilities to provide services in both Edmonton and Calgary. Both the EUB and NRCB need to continue to be separate from government to attract expert board members and to ensure their decisions are seen as independent.

The EAB primarily reviews decisions of the Environment ministry. Generally the EAB would not review a decision of the EUB or NRCB as long as a hearing occurred. The existing legislation should be clarified to ensure the jurisdictions of the EAB, EUB and NRCB do not overlap.

There is a need to clarify with the Environment Minister the policy and administrative mandate of the EAB. An MOU may be effective in clarifying specific administrative or policy matters. The MOU must be worded such that the quasi-judicial role of the EAB will not be affected.

Anecdotally, some stakeholders have indicated there is a need for "one-window approach" on various regulatory approvals and a need to avoid over regulating industry. While avoiding over regulation is always an objective, the overall system has to provide a balance among encouraging industry, protecting the environment, cost efficiency and appropriate cost sharing, and ensuring all stakeholders interests are properly considered.

Recently, senior officials in EUB and Environment have been discussing whether responsibility for remediation and reclamation of energy facilities should moved to the EUB from Environment.

The Land Compensation Board, the Surface Rights Board and the new Sustainable Resource Development Ministry also have some activities related to the functions described above for the EAB, EUB and the Ministry of Environment. Any changes considered need to take into account the relationships between all these organizations.

Recommendations

9.1 The Minister of Environment and the EAB should establish a memorandum of understanding for policy and administrative matters.

9.2 The responsible Ministers should review the legislation governing the EAB, EUB and NRCB to ensure it is clear and consistent in defining the respective duties and jurisdiction of the agencies.

9.3 The responsible Ministers should report jointly to the Reorganization Secretariat within 6 months on any opportunities for improving the operations of EAB, EUB, NRCB, Land Compensation Board and the Surface Rights Board and their relationships with the ministries of Energy, Environment, and Sustainable Resource Development. This review should also consider opportunities for consolidation and streamlining into a "one-window" approach.

ALBERTA GAMING AND LIQUOR COMMISSION/ALBERTA RACING CORPORATION

What They Do

The **Alberta Gaming and Liquor Commission** (AGLC) activities include licensing, regulating and monitoring gaming and liquor activities, collecting gaming and liquor revenue, and disbursing provincial lottery revenues. The **Alberta Racing Corporation** (ARC) regulates and promotes horse racing in Alberta.

Findings

The AGLC is effectively managing the regulation and monitoring of gaming and liquor activities in Alberta. Further operational efficiencies may be possible if alternative service delivery mechanisms were implemented in areas such as equipment maintenance.

Currently, the Commission establishes and enforces government policy and regulations as it relates to gaming activities and the sale of alcohol in Alberta. Individuals or companies which violate these regulations and have enforcement action taken against them may file an appeal. A sub-committee of the Commission's board hears these appeals. As the Commission's board has only five members, including two staff members, board members making enforcement decisions may sometimes hear appeals of these decisions. The AGLC is currently reviewing its governance structure and considering options for its appeal process, including expanded board membership.

The Auditor General has identified significant concerns with the Commission's agreement with the ARC regarding the split of slot machine revenue between the Commission, the ARC and the racetrack operators under the Racing Industry Renewal Initiative. As noted in the Auditor General's 1999-2000 Annual Report, the Commission has taken several steps to address the Auditor General's concerns.

The Ministry of Gaming is currently working to clarify roles and responsibilities of the AGLC, the ARC and the Ministry.

Recommendations

10.1 The AGLC should review alternative service delivery mechanisms for functions such as equipment maintenance and/or data processing.

10.2 The AGLC should continue its examination of its governance structure.

COUNCIL ON PROFESSIONS AND OCCUPATIONS

What They Do

The Council provides advice and support to the Minister of Human Resources and Employment with respect to the Minister's responsibility for various professions and occupations.

Findings

The Council consists of an MLA Chair and two senior staff from the ministry.

The need for the Council is unclear given that the senior ministry staff would be expected to advise the Minister on issues regarding professions and occupations as part of their regular duties. Implementation of the *Health Professions Act*, *the Accounting Profession Act* and other legislation have also diminished the need for the Council.

The Chair has agreed that the Council could be wound up by spring, 2001. Both the Council and Human Resources and Employment would need to establish a mechanism to allow professions to bring concerns to government. Through normal communication and ongoing liaison with the regulated professions and the public, the Professions an Occupations unit in Human Resources and Employment will continue to provide this window.

Recommendation

11 The Council should be eliminated as soon as possible, but no later than March 31, 2001. (Note - this recommendation has been implemented.)

Appendix 1

LIST OF AGENCIES, BOARDS AND COMMISSIONS AND DELEGATED ADMINISTRATIVE ORGANIZATIONS

OVERVIEW

The ABCs reviewed included those incorporated ABCs within the government's consolidated reporting entity except for the specific exclusions noted below. In addition, some unincorporated ABCs included in the listing of significant agencies, boards and commissions as identified by Ministers to Executive Council were reviewed. ABCs that do not have a broad public profile or exist in advisory or appeal role directly to a specific government program were not included in the review.

This section has been updated for the government reorganization announced on March 15, 2001.

AGRICULTURE, FOOD & RURAL DEVELOPMENT

Agriculture Financial Services Corporation
– Excluded (Klapstein review)
Alberta Agricultural Products Marketing Council
Alberta Grain Commission
Alberta Opportunity Company
– Excluded (Klapstein review)
Dairy Control Board
Farmers' Advocate
Irrigation Council

CHILDREN'S SERVICES

Child & Family Services Authority – Region 1 Sun Country
Child & Family Services Authority – Region 2 Southeast
Child & Family Services Authority – Region 3 Windsong
Child & Family Services Authority – Region 4 Calgary-Rocky View
Child & Family Services Authority – Region 5 Hearthstone
Child & Family Services Authority – Region 6 Diamond Willow
Child & Family Services Authority – Region 7 Ribstone
Child & Family Services Authority – Region 8 West Yellowhead
Child & Family Services Authority – Region 9 Keystone
Child & Family Services Authority – Region 10 Ma'Mowe
Child & Family Services Authority – Region 11 Sakaw-Askiy
Child & Family Services Authority – Region 12 Sakaigun Asky
Child & Family Services Authority – Region 13
Child & Family Services Authority – Region 14
Child & Family Services Authority – Region 15 Neegan Awas'sak
Child & Family Services Authority – Region 16 Awasak
Child & Family Services Authority – Region 17 Silver Birch
Child & Family Services Authority – Region 18 Metis Settlements
Social Care Facilities Review Committee

COMMUNITY DEVELOPMENT	Alberta Foundation for the Arts Alberta Historical Resources Foundation Alberta Human Rights & Citizenship Commission Alberta Sport, Recreation, Parks & Wildlife Foundation Government House Foundation Human Rights, Citizenship & Multiculturalism Education Fund Advisory Committee Wild Rose Foundation **The following boards were subject to a separate review by the Honourable Zwozdesky:** Persons with Developmental Disabilities Community Boards: Calgary; Central; Edmonton; Northeast; Northwest; and South Persons with Developmental Disabilities Foundation Board Persons with Developmental Disabilities Michener Centre Facility Board Persons with Developmental Disabilities Provincial Board
ECONOMIC DEVELOPMENT	Alberta Economic Development Authority Strategic Tourism Marketing Council
ENERGY	Alberta Energy and Utilities Board Alberta Petroleum Marketing Commission – Excluded (the Commission is a shell corporation; an agent of the Crown that accepts delivery of and markets the Province's royalty crude oil. All administration for the Commission is done by the Department of Energy. The board members are department staff.)
ENVIRONMENT	Environmental Appeal Board
EXECUTIVE COUNCIL	Alberta Order of Excellence Council
FINANCE	Alberta Automobile Insurance Board Alberta Government Telephones Commission Alberta Insurance Council

FINANCE - CONT'D	Alberta Municipal Financing Corporation Alberta Pensions Administration Corporation Alberta Treasury Branches Audit Committee Credit Union Deposit Guarantee Corporation Gainers Inc. General Insurance Council Insurance Adjusters Council Life Insurance Council N.A. Properties (1994) Ltd.
GAMING	Alberta Gaming & Liquor Commission Alberta Gaming Research Council
HEALTH AND WELLNESS	Alberta Alcohol and Drug Abuse Commission Health Disciplines Board Health Facilities Review Committee – Excluded (joint review with Social Care Facilities Review Committee to be conducted by Children's Services and Health and Wellness)
HUMAN RESOURCES & EMPLOYMENT	Board of Examiners Labour Relations Board Occupational Health and Safety Council Council on Professions and Occupations (eliminated April 1, 2001)
INNOVATION&SCIENCE	Alberta Science and Research Authority and its subsidiaries
JUSTICE	Alberta Review Board Criminal Injuries Appeal Board Fatality Review Board
LEARNING	Alberta Apprenticeship & Industry Training Board Council on Alberta Teaching Standards Private Colleges Accreditation Board Student Finance Board

REVENUE	Alberta Securities Commission
SENIORS	Alberta Social Housing Corporation
SUSTAINABLE RESOURCE DEVELOPMENT	Land Compensation Board Natural Resources Conservation Board Surface Rights Board
TRANSPORTATION	Alberta Motor Transport Board Driver Control Board

DELEGATED ADMINISTRATIVE ORGANIZATIONS

(As identified by Government Senior Financial Officers, 1999)

AGRICULTURE, FOOD & RURAL DEVELOPMENT	Livestock Identification Services Ltd.
ENVIRONMENT	Alberta Used Oil Management Association Beverage Containers Management Board Tire Recycling Management Association
GAMING	Alberta Racing Corporation
GOVERNMENT SERVICES	Alberta Motor Vehicle Industry Council Funeral Services Regulatory Board

MUNICIPAL AFFAIRS	Alberta Boilers Safety Association
	Alberta Elevating Devices and Amusement Rides Safety Association
	Alberta Propane Vehicle Administration Organization
	Petroleum Tank Management Association of Alberta
SUSTAINABLE RESOURCE DEVELOPMENT	Alberta Conservation Association
	Forest Resource Improvement Association of Alberta
	Professional Outfitters Association of Alberta

Appendix 2

IMPLEMENTING AN ACCOUNTABILITY FRAMEWORK
A MEMORANDUM OF UNDERSTANDING

OVERVIEW

It is recommended that a Memorandum of Understanding (MOU) be used as the document to clarify and improve the accountability relationship between Ministers and the boards of ABCs. The MOU will supplement the provisions of the legislation establishing the ABC and may:

- clarify the mandate of the ABC;
- specify government's expectations of the ABC in fulfilling its mandate, including any fiduciary responsibilities;
- state the MOU will cover a rolling three-year period and will be reviewed annually, consistent with current business plans;
- define the specific roles and responsibilities of the Minister, ministry staff, the board of the ABC, and ABC staff with respect to both policy and operational aspects of the ABC's mandate;
- confirm what accountability documents will be required and the timeframes for business plans, budgets, financial statements, annual reports, etc;
- clarify whether the board or the Minister approves the ABC's budgets and business plans, including any investment, lending or borrowing plans;
- lay out clearly the standards ABCs should follow in preparing annual reports;
- outline the framework the Minister will use in assessing whether the ABC's mandate is being fulfilled;
- specify guidelines to be used to evaluate annually the CEO's performance and/or the board's performance (both individually and as a group) against the established duties and objectives that were agreed to by the Minister and the board at the start of the year;
- clarify whether all or only some of the management and administrative directives approved by Treasury Board will apply explicitly to the ABC;
- identify the reports to be furnished by the ABC to the Minister, such as quarterly reports relating to financial and operational performance, the agendas and minutes of the ABC's board, whether the ABC must prepare a Board Governance Handbook to be approved by the Minister, and reports on the ABCs governance process, and
- specify whether a sunset review is required of the ABC; and if required, the date of the review (if it is known that the ABC will terminate within the time period covered by the MOU, information regarding the disposition of assets should be included).

It is very important to recognize that some ABCs are administrative tribunals that perform a quasi-judicial function, as described in legislation. In these cases, a memorandum of understanding should not in any way limit or interfere with this quasi-judicial function. However, a memorandum of understanding can be useful in dealing with administrative issues or matters of policy.

Once the ABC's Chair, CEO and the Minister agree on and sign a MOU, the MOU should be submitted to Cabinet and/or the Government Reorganization Secretariat.

CONSIDERATIONS

In drafting an MOU appropriate for the circumstance of an ABC, issues which Ministers might consider include:

- the objectives, role (advisory, fiduciary, grant-making, regulatory, operational, etc.), powers, and duties of the ABC;
- the reporting relationship between the ABC and its responsible Minister as enacted in legislation or established through other policy instruments (e.g., policy statements, written directives);
- the autonomy of the ABC's board;
- whose responsibility it is to define the expected results, including performance measures, for the agency;
- a direction to coordinate with other ministries and/or ABCs, where there may be common or related policy objectives;
- whether the Chair or the Chief Executive Officer reports to the Minister;
- whether the ABC is wholly or partially self-funding or is wholly dependent on the Province for its revenue;
- whether the ABC has any authority to borrow, and if so distinguish the ABC's responsibilities, including risk management, from those of the Minister of Finance when the organization exercises this authority;
- the accountability framework for subsidiary organizations;
- the nature of appointments to the board of an ABC (whether appointed members are from the general public, public servants, representatives of various interest groups);
- who sets the remuneration of the board, Chief Executive Officer and officers of the ABC (whether the government or the board), and
- how the ABC will report on its governance process.

ROLES AND RESPONSIBILITIES

Following are overviews of various roles and responsibilities that provide context to be considered in drafting a MOU.

Government (Cabinet and responsible Minister) – should consider itself accountable for:

- establishing the mandate and purpose of every agency and ensuring the mandate and purpose is communicated to board members and the public;
- decisions regarding the degree of autonomy the agency will be given. Effective communication of these decisions to all affected parties is critical to the establishment of a good relationship over time;
- establishing a broad framework for financial, administrative and operational controls (i.e., exemptions from the *Financial Administration Act* and minimum standards relating to the way the ABC does business);
- providing guidelines on the selection of government board members;
- approving the terms and conditions (which may include remuneration and full disclosure in financial statements) of appointments to an ABC's managing board; and
- reviewing, on an ongoing basis, the need for the continued existence of the ABC as a Crown agency.

Ministers – should see themselves as accountable for the ABCs within their jurisdiction by:

- communicating the mandate and purpose of the ABC;
- recommending to Cabinet the appointment (after appropriate consultation with the Public Service Commissioner) or dismissal of persons to boards of ABCs;
- articulating clear goals and measurable results that are expected and for which the ABC's board will be held accountable;
- communicating government policies to an ABC's Chair and Chief Executive Officer;
- informing all government appointed board members of their role;
- exercising any powers granted by the ABC's constituting instrument (e.g., statute, Order in Council, Alberta Business Corporations Act articles of incorporation);
- approving or recommending to Standing Policy Committee and/or Treasury Board the business plan and budget of the ABC;

- ensuring that all board members, whether appointed or elected, are made aware of the need to declare any conflicts of interest and of the penalties that may result from failure to do so;
- monitoring the activities of ABCs to ensure that their mandates are being fulfilled in compliance with government policies, taking appropriate action where necessary; and
- reporting annually to the Legislature on the affairs of the ABCs, including the tabling of annual reports, business plans and answering questions regarding the ABC.

Board of Directors

a) Collectively the board of directors are accountable for directing and supervising management and reporting to the Minister, including:

- setting out clear expectations about how the board intends to function to address issues such as the mandate of the board and its committees (e.g., Audit Committee), the board's objectives, processes, fiduciary responsibilities and its' expectations of management;
- establishing short and long-range business plans for the organization to enable it to carry out its objectives;
- safeguarding the organization's resources;
- reviewing capital and operating budgets, as well as investment, lending, borrowing and risk mitigation plans;
- establishing a system to measure and monitor performance of the organization and its senior managers;
- operating within the mandate, policies, and budget approved by Minister / government and making the Minister aware of the effect of the budget on the quality of service;
- defining salary ranges for senior executive officers in ABCs where the employees are not appointed under the *Public Service Act*;
- reporting to the Minister, at least quarterly, on the financial results and fiduciary responsibilities of the organization and identifying any deviations from approved budget / plans;
- addressing issues raised by its Audit Committee;
- keeping the Minister informed of issues or events that concern or can reasonably be expected to be important in the exercise of the Minister's responsibilities; and
- reviewing its own performance and that of its committees, soliciting as appropriate the views of employees, management, auditors and the Minister.

b) Individual board members are expected to:

- act honestly and in good faith with a view to the best interests of the ABC within the framework of the broad policy objectives defined by the government, Legislative Assembly, Minister, and the board of directors;
- exercise the care, diligence and skill that a reasonable and prudent person would exercise in comparable circumstances (i.e., a duty of care);
- in any case where the member has a conflict of interest in a matter under consideration by the organization, disclose the nature of that conflict to the chair at the first opportunity and refrain from participation in the discussion and voting on the matter; and
- provide written reasons for resigning to the Minister and the board of directors (similar to section 112(3) of the *Loan and Trust Corporations Act*. Where a board member resigns because of a disagreement with the board that the member perceives involves a violation of legislation or regulations or that would have a material adverse impact on the Crown agency or public body.)

Chief Executive Officers (CEO) – should be accountable to the Board and/or Minister (reporting relationship will depend on who appoints the CEO) for:

- the day-to-day management of the ABC;
- establishing appropriate systems for the general administration and financial management and control of the organization;
- monitoring performance and taking any corrective action when problems are identified;
- preparing short and long-range business plans as well as capital and operating budgets, investment, lending, borrowing and risk mitigation plans;
- maintaining effective communication with the Minister and/or the Deputy Minister and/or senior staff in the responsible ministry;
- ensuring that the assets and liabilities of the ABC and any public funds are managed effectively and with probity; and
- representing the ABC to the community and listening to the views of the community.

OTHER COMPONENTS

Other components of an accountability framework which could be incorporated into a MOU include:

Board Succession Plans – each ABC should develop for the Minister's review and approval a board succession plan that includes the following:

- assessing the current and future board needs (up to 3 years to tie-in to the business planning process). The needs assessment should focus on such issues as board size, representation, composition, and the roles and responsibilities of board members, and
- profiling the skills that a board member should have.

Orientation for Board Members – each ABC would develop a terms of reference for board members, and a formal orientation program and training plan may also be required. These materials could be based on the Board Governance Manual designed by Community Development or the Board Governance Handbook developed by the Agriculture Financial Services Corporation.

Conflicts of Interest – a duty of care regime is enshrined in legislation to require every director to act in good faith in the best interests of the ABC. For ministry staff who serve on a board, the duty of care regime should emphasize that the requirement to act in the best interests of the corporation should be within the context of the best interests of the Crown.